

**MINUTES
of the
SECOND MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE**

**July 2, 2013
Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque, New Mexico**

The second meeting of the 2013 interim of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Representative Ernest H. Chavez, chair, at 10:00 a.m. on July 2, 2013 at the office of the MFA in Albuquerque, New Mexico.

Present

Rep. Ernest H. Chavez, Chair
Sen. Nancy Rodriguez, Vice Chair
Rep. Thomas A. Anderson
Rep. Alonzo Baldonado
Sen. Lee S. Cotter
Rep. Roberto "Bobby" J. Gonzales

Absent

Sen. Stuart Ingle
Sen. Cisco McSorley

Advisory Members

Rep. Nathan "Nate" Cote
Rep. George Dodge, Jr.
Rep. Sandra D. Jeff
Sen. Richard C. Martinez
Sen. Michael Padilla
Sen. Sander Rue

Rep. James Roger Madalena
Sen. Bill B. O'Neill
Sen. Gerald Ortiz y Pino

Staff

Claudia Armijo, Staff Attorney, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Tuesday, July 2

Call to Order

Representative Chavez welcomed members of the committee, staff and guests to the meeting. The chair recognized Jay Czar, executive director, MFA, who advised members that the meeting is being video webcast and reminded them to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Approval of June 3, 2013 Meeting Minutes

Without objection, on a motion by Senator Rodriguez, seconded by Representative Anderson, the minutes of the June 3, 2013 meeting were approved.

MFA Update

Mr. Czar provided an update of recent and future MFA activities, including the following.

- *Committee group photo* — Mr. Czar explained that MFA staff are currently working on the MFA's biennial report and would like to include a group photo of the MFA Act Oversight Committee. He said that the group photo would be taken at the September 4 meeting and that MFA staff would call committee members to remind them.
- *New MFA board member* — Following up on committee questions and comments from the June meeting, Mr. Czar said that the governor has appointed a new MFA board member, Randy McMillan, a native of Las Cruces, a commercial realtor and a highly respected community leader. He said that Mr. McMillan would be joining the board for its staff retreat on July 17 and 18 and that MFA staff and other board members are looking forward to working with him and taking advantage of his experience.
- *July board retreat* — Mr. Czar reiterated that the board retreat would be on July 17 and 18 and encouraged committee members to join the board in any meeting at the members' convenience and to please contact him directly if they wish to do so.
- *Fiscal year (FY) 2013 MFA external audit* — Mr. Czar said that MFA staff has recently met with representatives of the Office of the State Auditor and KPMG to begin the process for completing the 2013 external audit. He reiterated that the MFA has received unqualified (i.e., "clean") audit opinions for the past 20 years.
- *Groundbreaking ceremony* — Mr. Czar reported that MFA staff traveled to Gallup on May 29 to attend the groundbreaking ceremony for the Hoogan Hohzo project, which will consist of 46 mixed-income affordable rental units. He said that Congressman Ben Ray Lujan, Navajo Nation President Ben Shelly, Representative Patricia A. Lundstrum, Gallup Mayor Jackie McKinney, Gallup city councillors and federal

Department of Housing and Urban Development (HUD) officials also attended and participated in the groundbreaking ceremony.

- *Lea County meetings* — Mr. Czar reported that senior MFA staff held meetings on June 17 and 18 with several local officials about the area's dire need for affordable housing and financing for housing developments. Among the attendees at the Hobbs meetings were Sam Cobb, Hobbs mayor, J.J. Murphy, Hobbs city manager, and Kevin Robinson, housing project manager. Mr. Czar also reported that Senator Carroll H. Leavell organized a meeting with MFA staff and mayors and city managers of Jal and Eunice and the Lea County Commission chair to discuss housing needs in that area of Lea County.
- *Santa Fe Stage Coach Motel renovation project grand opening* — Mr. Czar reported that MFA staff participated in grand opening ceremonies for the Santa Fe Stage Coach Motel renovation project on June 25 in Santa Fe. Funded with New Mexico Housing Trust Fund money, the project includes acquisition and rehabilitation of 16 existing units and new construction of 44 units, for a total of 60 affordable rental units. He added that 25 percent of the units are designed for persons with special needs and for people emerging from homelessness and that 20 percent of them are designed to be accessible to persons who are deaf and hard-of-hearing. Secretary of Economic Development Jon Barela, representing Governor Susana Martinez, attended the ceremony along with Santa Fe Mayor David Coss, three Santa Fe city councillors and federal HUD officials.
- *Las Cruces-area meetings and ribbon cutting* — Mr. Czar reported that MFA staff attended the ribbon-cutting ceremony for the opening of the Robledo Ridge Apartments, along with its local partner, Mesilla Valley Public Housing Authority. This project, costing \$10.9 million, includes 71 multifamily affordable units. Other attendees included Representative Phillip M. Archuleta, Las Cruces Mayor Ken Miyagishima and Las Cruces city councillors. Mr. Czar said that MFA staff also met with Senate President Pro Tempore Mary Kay Papen regarding affordable housing in Doña Ana County, as well as sustainability project leaders, including Representative Cote, Las Cruces city councillors, colonias developers, area planners and MFA service providers.

Regional Housing Policy and Budget Trends

Joseph Montoya, deputy director of programs, MFA, provided the committee with background on New Mexico's regional housing authorities. He said that housing authorities that encouraged regionalization became prevalent in the 1960s and 1970s across the United States. New Mexico's regional housing laws date back to the mid-1970s, when seven regional housing authorities were established to serve the state's rural areas. He explained that as federal funding dried up in subsequent decades, New Mexico's seven regional housing authorities relied on bonding capacity and other revenue streams to stay afloat.

He said that in the wake of a state-commissioned assessment to examine causes and solutions of alleged corruption among regional housing authorities, the state's Regional Housing Law (Sections 11-3A-1 through 11-3A-31 NMSA 1978) was amended in 2008 and 2009 to: (1) consolidate the state's regional housing authorities from seven to three; (2) establish regional housing authority oversight with the MFA; (3) require minimum qualifications for regional housing authority commissioners and have commissioners appointed by the governor; and (4) clarify the way in which public and regional housing authorities should operate when their respective service areas overlap. As it is currently written, the Regional Housing Law does not allow regional housing authorities to provide services within municipalities or counties that have established public housing authorities (PHAs) unless the local government passes a resolution allowing them to do so. Mr. Montoya also noted that a local government can limit a regional housing authority to avoid duplication of services already offered by the PHA. Today, regional housing authorities continue to operate side-by-side with PHAs established by counties and municipalities under provisions of the Municipal Housing Law (Chapter 3 NMSA 1978).

In response to committee discussion and questions, Mr. Montoya noted that many of the 31 PHAs in New Mexico are categorized by HUD as "troubled" or having "substandard management". He said that all of them manage the low-rent units and issue Section 8 vouchers. He said that none provides a full spectrum of housing services, such as rehabilitation and weatherization services, which are vital to rural communities, and all could clearly benefit from significant capacity-building to better serve their communities.

After passage of amendments to the Regional Housing Law in 2008 and 2009, the governor appointed boards of directors for all three (eastern, western and northern) regional housing authorities. Directing the members' attention to the "New Regional Housing Authority Regions" map behind Tab 1 in their notebooks, Mr. Montoya pointed out that urban areas in Santa Fe, Bernalillo and Doña Ana counties have no regional housing authority representation. He said that while a board of directors is in place for the Northern Regional Housing Authority (NRHA), no organization exists to provide housing services. Some troubled PHAs in the region have indicated that they would like to turn over their vouchers and units to a qualified entity, if one existed. He said that limited capacity of many PHAs, as verified by the HUD, and rapidly shrinking federal funds mean that the trend toward regionalization will accelerate. He emphasized the importance of establishing a viable NRHA so that communities in the north will have access to affordable housing services.

Representative Chavez recognized Chris Herbert, executive director, Eastern Regional Housing Authority (ERHA), to provide an overview of his agency's work. Mr. Herbert said that the ERHA is committed to serving the housing needs of low-to-moderate-income families in Chaves, Curry, De Baca, Eddy, Guadalupe, Harding, Lea, Lincoln, Otero, Quay, Roosevelt and Union counties by using all available resources to provide decent, safe and high-quality affordable housing. He explained that the authority is overseen by a seven-member board of commissioners appointed by the governor and operated by three administrators: an executive director, a deputy director and a finance director.

Mr. Herbert went on to explain that the ERHA is currently ranked as a "High Performer" by the HUD and that it received an "unqualified" audit opinion on its 2012 audit and expects another "unqualified" opinion for FY 2013. He said that the ERHA has achieved "High Performer" status from the HUD, as well as "unqualified" audits, for the past nine years.

Mr. Herbert said that one of the ERHA's biggest accomplishments has been the successful merger of the Vaughn Housing Authority's assets into the ERHA public housing portfolio. Before the Vaughn Housing Authority came under the control of the ERHA in 2010, it had been rated as a "troubled authority" for more than five years. The ERHA has also increased the occupancy rate from 50 percent to 100 percent over the same time period. He explained that other ERHA programs include the following.

- 1,850 vouchers are allocated to the ERHA for the Housing Choice Voucher program. The Section 8 Housing Choice Voucher program is a federally funded program that helps low-income households by subsidizing their rent with payments made directly to landlords, usually 30 percent to 40 percent of the tenant's monthly adjusted gross income for rent and utilities.
- 140 units in the HUD low-rent housing programs in Carrizozo, Capitan and Vaughn. The ERHA owns and manages the programs for families who pay 30 percent of their monthly adjusted gross income as rent.
- 20 multifamily units in Hagerman called the Rio Felix Apartments, owned by the Farmers Home Administration and U.S. Department of Agriculture, and operated by the ERHA; family income must qualify to lease a unit in these apartments.
- 152 units of affordable housing called the Woodleaf Apartments, which are owned and operated by the ERHA; these units are work force housing, with preference given to city and county employees, law enforcement personnel, first responders, education staff and health care staff.

Committee comments and discussion centered on the ERHA's challenges and constraints:

- Greatest concern: lack of decent, safe and affordable housing in the ERHA area, particularly in Curry, Roosevelt, Chaves, Lincoln, Eddy and Lea counties. All housing authorities are limited by the HUD Fair Market Rents (FMRs). FMRs for those counties fall short of actual comparable rents for the area, which creates a situation by which Section 8 voucher holders cannot find units that will both pass a housing standards inspection and have rents less than 110 percent of the counties' respective FMRs.
- Another concern is the agency's lack of funding to administer programs appropriately. Mr. Herbert told committee members that the HUD has reduced the Housing Choice

Voucher program administrative fees by 31 percent for the federal FY 2013 budget. He said he is expecting a similar reduction in federal FY 2014 funding, which goes into effect in October 2013. Some committee members and presenters discussed concerns with federal "do-more-with-less" policies currently in effect that are expected to continue into the future.

Further discussion focused on the agencies' opportunities and goals, including the following:

- locating other sources of funding to allow hiring additional staff to expand outreach and additional housing programs to all of their service areas;
- working with local housing authorities within the region to develop collaborative plans to deal with reductions in federal funding; and
- promoting affordable housing throughout the 12 counties for rental assistance and homeownership.

Representative Chavez recognized Cathy DeMarco, executive director, Western Regional Housing Authority (WRHA), to provide the committee with information about the agency's program. Ms. DeMarco noted that the WRHA includes Grant, Catron, Hidalgo, Luna, Sierra, Socorro, Valencia and Torrance counties. The agency has an eight-member board of commissioners, appointed by the governor, with two currently vacant positions.

Ms. DeMarco noted that the WRHA is also a HUD "High Performer" and has had clean audits for the past 14 years. The WRHA oversees the following programs.

- 911 vouchers through the Section 8 program, which provide rent subsidies for qualified applicants and also provide subsidies for homeownership.
- 54 HUD low-rent housing units built on two sites in Silver City with ownership and management by the WRHA.
- Five units built in Silver City with excess administrative reserves from the Section 8 program currently occupied by voucher program participants.
- The Rental Assistance program in WRHA-area counties is designed to assist eligible homeless or precariously housed persons to find and maintain safe, decent and affordable rental housing.

Ms. DeMarco indicated that, among the agency's challenges and constraints, the greatest concern is a lack of decent, safe and affordable housing, particularly in highly rural areas such as

Hidalgo County. Ms. DeMarco said that she is hoping to establish a "Rental Rehab Program" similar to one that was established by the HUD 16 years ago and that was quite successful.

Ms. DeMarco also noted a lack of funding for administration of programs. She explained that the WRHA has a total of 11 staff members at two offices located in Silver City and Deming. She said that she has not had the resources to hire additional staff since the addition of four counties to the region.

Another challenge, she said, is to achieve a 98 percent "lease-up" rate with the funds and staff available. The current lease-up rate is 91 percent across the region, with the following breakdown by county: Grant County, 93 percent; Catron County, 82 percent; Luna County, 89 percent; and Hidalgo County, 83 percent. Ms. DeMarco also noted that the WRHA is using 100 percent of its housing authority to maintain this lease-up rate as well as all housing authority reserves.

Ms. DeMarco indicated that she will be looking for additional sources of funding to hire additional staff to expand the agency's outreach and additional housing programs to all service areas. She also plans to conduct research on other housing opportunities for the WRHA's Montaña Vista property.

Mr. Montoya explained that when the Regional Housing Law was amended in 2008 and 2009, the MFA was given oversight responsibility for the state's regional housing authorities. He explained that in 2006 and 2008, the MFA commissioned two studies, both of which found that technical assistance and capacity-building are critically needed. He said that, to date, the MFA has provided significant technical assistance and capacity-building for regional housing authorities in areas such as new program development, use of the MFA products and production of new units. He said that the MFA is requesting funding on a recurring basis from the legislature to fulfill the state oversight mandate to provide consistent and reliable support for regional housing authorities in the years to come.

Mr. Montoya explained that in FY 2014, the MFA will need funding to cover start-up costs for the NRHA, which has a governor-appointed board but no staff. He pointed out that, given shrinking federal support and the troubled status of many PHAs in northern New Mexico, a viable regional housing authority must be established to provide critical housing services, especially for all of northern New Mexico's rural communities. He said that in April 2013, the Taos County Commission passed a resolution authorizing the transfer of assets (housing units) from the former Taos County Housing Authority to the NRHA. The MFA and HUD are currently assisting with that transition, which should provide assets and federal funding for the NRHA to begin operations. In the next few months, an operational plan must be developed that provides a budget, staffing plan and capital improvements plan for the NRHA.

Mr. Montoya said that in the course of working to establish the NRHA, the MFA has identified a critical issue that, if not addressed, could threaten the existence of housing services in

the most rural and needy communities. He explained that currently, there are no requirements or conditions for a PHA that takes over units, vouchers or services from other PHAs that no longer wish to operate on their own.

Affordable Housing Act

Nicole Sanchez Howell, program manager, MFA, discussed with committee members several issues that are not covered in the current Municipal Housing Law. She and Mr. Montoya requested committee members to work with them to amend the Municipal Housing Law to address the following.

- **Representation.** A PHA that is taking over units, vouchers or services from another authority is not required to offer board representation to the community it will now serve. This is a problem, especially when rural communities are "absorbed" into PHAs that serve urban areas. There is currently no requirement in law that the urban PHA will act to benefit the rural community, which, in many cases, will be geographically distant and demographically distinct from the urban area.
- **Distribution of Services.** Ms. Sanchez Howell pointed out that there is no requirement for a PHA that is taking over units, vouchers or services from another authority to continue its obligations to the community from which the units, vouchers or service are located or come from. As a result, a PHA will receive federal funding to serve the new community, but it is not obligated to spend those funds in that community. Funding or vouchers intended for a rural community may therefore be redistributed to other parts of the service area that are more profitable to the PHA.
- **Cherry-Picking.** Allowing PHAs to take over other housing authorities without any requirements in place undermines the viability of the regional housing authorities. New Mexicans are aware that the rural nature of the state poses unique challenges. Municipalities and large towns subsidize the services that are less profitable. Regional housing authorities depend on this balance to remain financially viable. If PHAs are allowed to "cherry-pick" and absorb the more profitable housing authorities from the service areas designated by the Regional Housing Law, the regional housing authority for that area will be undermined and, in a worst case scenario, will be unable to support a portfolio that includes only small communities.

MFA Legislative Agenda

Mr. Czar directed committee members' attention to the information behind Tab 3 in the committee notebooks. He said that the MFA has several opportunities to explain its legislative priorities at the Legislative Finance Committee meeting in September and through other legislative outreach activities. In terms of outreach to the executive, Mr. Czar said that MFA staff and board members will engage in outreach activities to Department of Finance and Administration and Office of the Governor staff. He expressed his concern that given the MFA's statutory requirement to oversee the regional housing authorities, funding for this oversight

responsibility should automatically be included in each year's general appropriation act and that appropriations to the New Mexico Housing Trust Fund should be addressed each year as well.

Mr. Czar and committee members discussed the MFA's 2014 legislative priorities at length, including the following.

- **Regional housing authority funding.** In 2006, the MFA was mandated by state statute to restructure and oversee three regional housing authorities. The MFA has provided training and technical assistance to and audits of the regional housing authorities. Since MFA oversight began, no fraud, waste or abuse has occurred. Regional housing authorities are the primary housing service providers in rural areas and will become increasingly important as smaller agencies close because of budget cuts. The MFA has requested \$250,000 in recurring funds from the legislature and received no appropriations.
- **Affordable Housing Act oversight funding.** The MFA is mandated by law to oversee the Affordable Housing Act, which allows state and local governments to contribute resources for affordable housing. In addition to oversight, the MFA provides technical assistance for housing plans and ordinances required by the Affordable Housing Act; continued state funding is critical to support this mandate. The MFA requested \$100,000 from the 2013 legislature and received no appropriations.
- **New Mexico Housing Trust Fund.** This fund was created by the legislature in 2005 with an initial appropriation of \$10 million and additional appropriations totaling \$8.2 million. Every state dollar in the fund leverages an additional \$11.00 through other sources, loan repayments and interest income; as a result, 2,400 affordable home have been constructed or rehabilitated to date. The MFA requested an appropriation of \$5 million from the 2013 legislature and received an appropriation of \$200,000.
- **New Mexico EnergySmart appropriation.** Low-income households may spend 25 percent of their monthly budgets on utility costs, compared to five percent spent by higher-income households. This MFA program weatherizes homes for low-income households. MFA funding has served to weatherize approximately 1,000 homes per year, with an additional 4,000 homes weatherized with federal American Recovery and Reinvestment Act of 2009 funds, all of which have been expended. State funding is leveraged four-to-one, with federal Department of Energy Weatherization Assistance Program and Low Income Home Energy Assistance Program funds. The MFA requested \$1 million from the 2013 legislature and received no appropriations.

With additional explanation from Mr. Montoya on the importance of the legislative priorities discussed in his earlier presentation, committee members and MFA staff continued to discuss the following legislative issues.

- Amend the **Affordable Housing Act** to: (1) lift the long-term affordability restriction if a donated property is foreclosed upon so that the property can be resold; and (2) add a penalty provision to ensure that the Affordable Housing Act can be enforced.
- Amend the **MFA** to: (1) change the name of the MFA to "Housing New Mexico" (to avoid being mistaken for the New Mexico Finance Authority, which continues to be under investigation for alleged fraudulent practices, including submission of a "fake" audit in 2011); (2) make the MFA the only recipient of federal housing funds intended for New Mexico; (3) make the MFA the only housing authority that can work statewide; and (4) allow flexibility in the way in which the MFA receives state funds.
- Amend the **Municipal Housing Law** to: (1) allow housing authorities to act separately, not as agents of their respective local governments; (2) add flexibility on the number of board members; and (3) require a mechanism for local representation on boards. Committee members suggested that MFA staff work with the New Mexico Municipal League, the New Mexico Association of Counties, the HUD and the National Association of Housing and Redevelopment officials.

Mr. Montoya also noted several other important legislative priorities, including short-term assistance for the recently homeless or those at risk of homelessness; support services to complement rental assistance for the chronically homeless; emergency and minor repairs for low-income households; support for those behind in their rent; loans for low- and moderate-income households; funding for residential energy efficiency improvement loans, including solar upgrades; below-market loans and down-payment assistance to teachers, public safety workers, health care workers and active members of the military; funding for the Neighborhood Stabilization program for acquisition, rehabilitation and resale of foreclosed homes; funding for homebuyer education; and funding for foreclosure counseling.

Mr. Czar and Mr. Montoya reiterated the importance of the committee members' support for adequate funding for the state's three regional housing authorities, funding for administration of the Affordable Housing Act and funding for administration of the MFA Act.

2013 MFA Annual Report Overview

Monica Abeita, senior policy and program advisor, MFA, directed the committee members' attention to information behind Tab 4 in the meeting notebooks relating to the 2013 MFA annual report. She went over a draft table of contents with committee members and stressed that, in addition to important data, such as MFA financials, production highlights and five-year expenditures by county, the report will attempt to put a "human" face on the results of the MFA's involvement in providing homes for low- and middle-income persons and families. She and committee members discussed a case study vignette about a single mother and her son's move from Silver City to Las Cruces, including homebuyer counseling, preparation of the family's finances and credit, securing a mortgage and finally finding a "perfect" home. Several

committee members commented on the importance of homebuyer financial counseling in the process.

Ms. Abeita reminded committee members that a photographer has been scheduled at the September meeting to take a picture of the MFA Act Oversight Committee to be included in the annual report.

Mr. Czar reminded committee members that the August 7 meeting will be a joint meeting with the Military and Veterans' Affairs Committee at the offices of St. Joseph Community Health, 1516 Fifth Street NW, Albuquerque, at 9:00 a.m.

Adjourn

There being no further business before the committee, the meeting adjourned at 12:47 p.m.